

Message Text

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ACTION XMB-04

INFO OCT-01 EUR-12 EA-06 ISO-00 AID-05 CEA-01 CIAE-00

COME-00 EB-07 FRB-03 INR-07 NSAE-00 CIEP-01 SP-02

STR-01 TRSE-00 LAB-04 SIL-01 SAM-01 OMB-01 L-02

OPIC-03 /062 W

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P R 041829Z MAR 75

FM USMISSION EC BRUSSELS

TO SECSTATE WASHDC PRIORITY 8413

INFO ALL EC CAPITALS 414

AMEMBASSY TOKYO

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E.O. 11652: NA

TAGS: EFIN, ETRD, GATT, EEC

SUBJECT: EXPORT CREDIT GENTLEMEN'S AGREEMENT AND
UK EXPORT CREDIT ACTION

REF: STATE 47207 (NOTAL)

1. BEGIN SUMMARY: WE DISCUSSED US VIEWS REGARDING THE UK SCHEME TO USE EXPORT CREDITS TO COVER RISING EXPORT COSTS WITH EC COMMISSION OFFICIALS. THE COMMISSION HAS CRITIZED AND IS PLANNING TO CONTINUE TO CRITICIZE THIS SCHEME IN VARIOUS EC FORA. IT IS ALSO SEEKING A LEGAL OPINION TO DETERMINE IF THE UK AND OTHER MEMBER STATE SCHEMES ARE IN VIOLATION OF THE ROME TREATY. AT THIS TIME, HOWEVER, THE COMMISSION PLANS TO TAKE NO FORMAL ACTION AGAINST THESE SCHEMES UNTIL AFTE THE UK REFERENDUM BECAUSE OF THE POSSIBLE POLITICAL REPERCUSSIONS THAT SUCH AN ACTION MAY CAUSE. END SUMMARY.

2. AS INSTRUCTED IN REFTEL, WE DISCUSSED THE US VIEWS REGARDING THE UK DECISION TO INTRODUCE EXPORT INFLATION RISK COVERAGE AND THE POSSIBLE IMPACT OF THIS DECISION ON THE PROPOSED GENTLEMEN'S
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AGREEMENT WITH THE DIVISION CHIEF FOR EXPORT CREDIT,

MRS. LILIANA ARCHIBALD. MRS. ARCHIBALD DEPLORES THE UK'S ANNOUNCEMENT AND HAS CRITICIZED THE PROPOSED SCHEME IN A RECENT MEETING OF THE EC WORKING GROUP ON EXPORT CREDITS. SHE SAYS THAT THE COMMISSION IS GATHERING ALL THE EVIDENCE IT CAN REGARDING THE UK-PROPOSED SCHEME AND HAS ALSO ASKED THE FRENCH AND THE ITALIANS TO SUBMIT ADDITIONAL INFORMATION REGARDING THEIR SCHEMES TO HELP DEFRAID INCREASED COSTS OF EXPORTS. THE COMMISSION IS CURRENTLY SEEKING A LEGAL OPINION AS TO WHETHER THESE SCHEMES ARE IN VIOLATION OF THE TREATY OF ROME, ESPECIALLY ARTICLES 92, 112 AND 113.

3. ACCORDING TO MRS. ARCHIBALD, THE LEGAL ISSUES ARE NOT CLEAR. UNDER ARTICLE 92, THE COMMISSION NEEDS TO PROVE THAT THESE SCHEMES, WHICH REPORTEDLY ONLY AFFECT TRADE OUTSIDE OF THE COMMUNITY, DISTORT COMPETITION WITHIN THE EC. UNDER ARTICLES 112 AND 113 THE COMMISSION NEEDS TO PROPOSE A DIRECTIVE TO THE COUNCIL OF MINISTERS THAT WOULD INVOLVE MEASURES TO ENSURE THAT EXPORT CREDIT COMPETITION TO THIRD COUNTRIES DOES NOT DISTORT COMPETITION WITHIN THE EC. A UNANIMOUS DECISION IS REQUIRED FOR THE COUNCIL TO ADOPT SUCH A PROPOSAL.

4. IN ANY CASE, THE EC COMMISSION PLANS TO TAKE NO FORMAL ACTION AGAINST THE UK'S OR OTHER COUNTRIES' SCHEMES UNTIL THE UK RENEGOTIATION ISSUE IS SETTLED. ONCE THIS ISSUE IS RESOLVED, AND IF THERE IS A LEGAL DETERMINATION THAT THESE SCHEMES ARE IN VIOLATION OF THE EC TREATY, MRS. ARCHIBALD PLANS TO URGE THE COMPETITION DIRECTORATE GENERAL (DG) TO TAKE THESE CASES TO THE EUROPEAN COURT.

5. MRS. ARCHIBALD BELIEVES THAT THE PROPOSED UK SCHEME IS IN VIOLATION OF THE GATT RULES PERTAINING TO EXPORT SUBSIDIES. BECAUSE OF THE PENDING BRITISH REFERENDUM, THE EC COMMISSION IS NOT IN A POSITION TO RAISE THIS ISSUE AT THIS TIME. SHE HOPES, HOWEVER, THAT THE US WILL SEEK A GATT RULING ON THESE SCHEMES. SINCE THE COMMISSION ACTS AS THE EC SPOKESMAN AT GATT MEETINGS, IT WOULD BE HELPFUL TO HAVE THESE EXPORT CREDIT SCHEMES ON THE GATT AGENDA BECAUSE IT WOULD GIVE THE COMMISSION ADDED LEVERAGE IN SEEKING JOINT EC ACTION ON THESE SCHEMES.

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6. COMMISSION OFFICIALS IN THE COMPETITION DG TELL US THAT IT WILL BE DIFFICULT TO PROVE UNDER ARTICLE 92 THAT THE UK SCHEME, WHICH ONLY APPLIES TO EXPORTS TO THIRD COUNTRIES, INDIRECTLY DISTORTS INTRA-EC TRADE. CONSEQUENTLY, THIS DG EXPECTS COMMISSION ACTION IF ANY, TO BE TAKEN UNDER ARTICLES 112-113, WHICH WOULD CONSIDERABLY WEAKEN THE COMMISSION'S ABILITY TO SEEK A WITHDRAWAL OF THESE SCHEMES. A COMMISSION OFFICIAL WORKING

ON GATT AFFAIRS BELIEVES THE UK SCHEME IS SIGNIFICANTLY MAINLY
IN RELATION TO THE GENTLEMEN'S AGREEMENT AND THE OECD TRADE
PLEDGE. THE BRITISH WERE ASKED AT THE EC ARTICLE 113
COMMITTEE MEETING OF FEBRUARY 25 TO REPORT ON THEIR SCHEME
AT THE NEXT MEETING.

7. COMMENT: DESPITE MRS. ARCHIBALD'S POSITIVE TONE REGARDING
POSSIBLE COMMISSION ACTION IN THIS AREA, AT THIS TIME IT IS
DIFFICULT TO ASSESS THE COMMISSION'S DETERMINATION TO PURSUE
THIS ISSUE. END COMMENT. GREENWALD

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: EXPORTS, CREDIT AGREEMENTS
Control Number: n/a
Copy: SINGLE
Draft Date: 04 MAR 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975ECBRU01880
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750075-0944
From: EC BRUSSELS
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750386/aaaacyys.tel
Line Count: 125
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION XMB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 75 STATE 47207
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 15 APR 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <15 APR 2003 by ShawDG>; APPROVED <16 APR 2003 by GolinoFR>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
05 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: EXPORT CREDIT GENTLEMEN'S AGREEMENT AND UK EXPORT CREDIT ACTION
TAGS: EFIN, ETRD, GATT, EEC
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006